

No. 18241

IN THE

# United States Court of Appeals

FOR THE NINTH CIRCUIT

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DAVID FARRELL and OLIVER J. FARRELL,

*Appellants,*

*vs.*

UNITED STATES OF AMERICA,

*Appellee.*

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PETITION FOR REHEARING.

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SYLVAN B. ARONSON,

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*Attorney for Appellant  
Oliver J. Farrell.*

**FILED**

SEP - 6 1963

FRANK H. SCHMID, CLERK



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## PETITION FOR REHEARING.

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*To: Jertberg and Browning, Circuit Judges, and  
Burke, District Judge.*

This is a Petition for Rehearing by Oliver J. Farrell upon the judgment of this Court affirming the conviction of Appellant in the United States District Court for the Southern District of California.

### Grounds for Rehearing.

#### I.

The record does not contain substantial evidence viewed in the light most favorable to the Government to support the judgment. As a matter of law reasonable minds as triers of the facts could not find that the evidence excludes every reasonable hypothesis but that of guilt.

II.

In the Court's recitation of facts setting forth Oliver J. Farrell's participation in the affairs of LATD&ME and related companies, set forth on page 5 of the Opinion, the following facts are not supported by the record:

1. He edited literature that was mailed out to investors.
2. He furnished to investors false and misleading information concerning the liquidation policy of LATD&ME.
3. He instructed the regional sales managers that the salesmen, in selling the 10% Earnings Programs, should resort to sham references in reassuring investors that their investments could be quickly liquidated.
4. He assisted in drafting brochures sent to salesmen and investors which falsely represented the value and stability of subordinate trust deeds that were created against undeveloped subdivisions or vacant tracts of land.
5. He instructed salesmen to represent to investors that the subdividers who created trust deeds for LATD&ME against vacant tracts of land had made large cash investments in the subdivision, whereas, in some instances no investment had been made by the subdivider.

Respectfully submitted,

SYLVAN B. ARONSON,

*Attorney for Appellant  
Oliver J. Farrell.*

### Certificate of Counsel.

Sylvan B. Aronson, being one of the counsel for appellant herein, certifies to this Court that the Petition for Rehearing is presented in good faith and not for the purposes of delay.

Dated: September 5, 1963.

SYLVAN B. ARONSON

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I certify that, in connection with the preparation of this brief, I have examined Rules 18 and 19 of the United States Court of Appeals for the Ninth Circuit, and that, in my opinion, the foregoing brief is in full compliance with those rules.

SYLVAN B. ARONSON